



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,204	04/12/2004	Carla Renae Briggs		2366
45352	7590	09/06/2005		
THE INVENTORS NETWORK, INC. 332 ACADEMY STREET CARNEGIE, PA 15106			EXAMINER REICHLE, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/822,204	BRIGGS, CARLA RENAE	
	Examiner	Art Unit	
	Karin M. Reichle	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4-12-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Specification***

1. The drawings are objected to because Figure 2, a cross-section of Figure 1, does not show 16 as shown in Figure 1. In Figures 3-4, where is the element 40 set forth on page 6, line 4? Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 4 and 8, i.e. a cylindrical package with an openable lid or peel-off lid, see also

Art Unit: 3761

discussion infra, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

3. The disclosure is objected to because of the following informalities: in claims 4 and 8 Applicant describes a package, which had been previously claimed as having a openable lid or peel-off lid, as also being cylindrically-shaped. While on pages 5-6 and in Figures 3-4 a cylindrically shaped package is shown, it is not shown nor is it described that such has a lid which is openable or peelable. It is only described that a portion of the

Art Unit: 3761

packaging is pulled back or peeled way, i.e. the package is opened or torn open. A consistent description of the invention in claims 4 and 8 and the description of Figures 3-4 should be set forth. See Claim Language Interpretation section infra.

Appropriate correction is required.

Claim Language Interpretation

4. The terminology “lightweight” is considered relative absent claiming specific dimensions thereof. The terminology “waterproof packaging including a cavity and openable lid” and similar language in claim 5 is interpreted to require a container of water proof material including a cavity and a lid as discussed infra and can, but is not required, to be a sealed enclosure. “A feminine protection item” will be interpreted as including the items set forth on page 4, line 20-21. “Lid” as defined by the dictionary is “a removeable or hinged cover for a hollow receptacle”. However, due to the lack of clarity with regard to claims 4 and 8 supra, a lid will be considered any portion of the cover which can be opened, peeled-off or removed from the remainder of the packaging. The terminology “concomitant” is defined by the dictionary as “existing or occurring concurrently, accompanying, attendant”. In light of page 5, lines 7-9 of the instant application and claim 2, while claims 1 and 3-4 are interpreted as including the capability of simultaneous removal they are not considered to require such as does claim 2. The language “attached” in claims 2 and 6 is interpreted as including either direct or indirect attachment. In claim 8, the language “distinct” is considered relative. It is noted that the preamble, and lines 3-4, 5-6, and 7-8 of claim 1, lines 2-3 of claim 2, the preamble and lines 4-5,, 6-8, 9-10 and last three lines of claim 5, lines 2-3 of claim 6 and the last line of

Art Unit: 3761

claim 9 recite properties, functions or capabilities of the structure set forth in those claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Steger et al '448.

See Claim Language Interpretation section supra, Figures 6-9, paragraphs 9, 24, 57, 61-62, 66-67, 70-74, 81-82, 86, 89-90, 92-96, 101-102 and 104, i.e. the '448 reference teaches a package, see Figure 9, of "lightweight", as noted supra the terminology "lightweight" is considered relative, film, i.e. waterproof material, including a cavity defined between 52a and 51 when the sides thereof are sealed and an openable or peel-off lid 52b, a sanitary napkin, i.e. a feminine protection item, is stored within the package for selective removal thereof, a wipe 80 enclosed within wrapping 70 is contained within the package and adhesively attached to the sanitary napkin for removal together and simultaneously from the package. The package is square in shape and the wipe can include a perfume or scent. Again it is noted the terminology "distinct" with regard to claim 9 is considered relative with regard to the 1st three lines of claim 5, see paragraph 81, and thereby Fisher '878 which is the PCT of Fisher '230, at page 2, last paragraph, i.e. the package is intended to be used to dispose of used products. Therefore,

Art Unit: 3761

it is the Examiner's first position that the Steger '448 reference explicitly teaches the structures and its capabilities, functions and properties as set forth in the claims. In any case, the Examiner's second position, the Steger et al '448 reference at the very least teaches all the claimed structure. Therefore, there is sufficient factual evidence for one to conclude that such structure would inherently also include the same functions, capabilities and properties as that of the claimed structure, see MPEP 2112.01.

7. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher PCT '878.

See Claim Language Interpretation section supra, Figures 4, 13-13F, 14, and 19-21, abstract, page 2, last paragraph, the paragraph bridging pages 15-16, page 17, line 18-page 19, line 8, page 34, line 1-page 35, line 2, page 36, line 1-page 39, line 6, page 40, line 8-page 42, line 19, page 44, line 19-page 45, last line, page 46, last full paragraph, page 47, first two full paragraphs, e.g. the '878 reference teaches package, see Figures 20-21 or 13-14, of "lightweight", as noted supra the terminology "lightweight" is considered relative, film or moisture and vapor impervious overwrap, i.e. waterproof material, including a cavity, see Figure 21 or defined between 34e and 34f when the sides thereof are sealed in Figure 13F, and an openable or peel-off lid or portion, at the sides 114 or/and ends 116 in Figures 20-21 and at least 34d in Figure 13E, a sanitary napkin or tampon, i.e. a feminine protection item, is stored within the package for selective removal thereof, a wipe 80 enclosed within a wrapping, see last full paragraph on page 46 and the first full paragraph on page 42 and 53 in Figure 13B, is contained within the package and attached to the sanitary napkin, see at least Figure 21 in which 80 is wrapped around the tampon, and compare to Figures 3-4 of the instant application. The package is square in

Art Unit: 3761

shape, see Figure 13E, or cylindrical in shape, see Figures 20-21, and the wipe can include a perfume or scent. Again it is noted the terminology "distinct" with regard to claim 9 is considered. With regard to the last three lines of claim 5, see page 2, last paragraph, i.e. the package is intended to be used to dispose of used products. Therefore, it is the Examiner's position that Fisher '878 at the very least teaches all the claimed structure. Therefore, there is sufficient factual evidence for one to conclude that such structure would inherently also include the same functions, capabilities and properties as that of the claimed structure, see MPEP 2112.01.

Conclusion

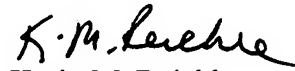
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other cited references show various other feminine protection systems.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
September 1, 2005